

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**MORRELL MASONRY SUPPLY, INC.,** §  
*Plaintiff,* §

v. §

**THE TRAVELERS INDEMNITY** §  
**COMPANY OF AMERICA,** §  
*Defendant.* §

**CIVIL ACTION NO. 5:19-cv-1445**

**DEFENDANT’S NOTICE OF REMOVAL**

Defendant The Travelers Indemnity Company of America (“Travelers” or “Defendant”) files its Notice of Removal of this action from the 224th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, the District Court of the United States for the District and Division encompassing the place where the state court is located. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Defendant shows this Court as follows:

1. On October 31, 2019, Plaintiff Morrell Masonry Supply, Inc. (“Plaintiff”) filed an Original Petition and Requests for Disclosure in the 224th Judicial District Court of Bexar County, Texas, styled *Morrell Masonry Supply, Inc. v. The Travelers Indemnity Company of America*, where it was assigned Cause No. 2019-CI-22768. On December 11, 2019, Plaintiff filed a First Amended Petition.

2. On November 15, 2019, Travelers was served with a citation and Plaintiff’s Original Petition. Removal is timely because thirty (30) days have not elapsed since any defendant was effectively served with a summons or citation. 28 U.S.C. §1446(b)(1); *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999) (holding that the 30-day deadline

to remove begins on the date the summons or citation is served, even if the complaint is received at a prior date).

3. Defendant is, contemporaneously with the filing of this Notice, giving written notice of filing of this Notice of Removal to the clerk of the 224th Judicial District Court of Bexar County, Texas, and will serve a copy of the Notice of Removal on Plaintiff.

4. Attached as “Exhibit A” is an appendix of all documents filed in the state court action that identifies each document and indicates the date the document was filed in state court, including the state court docket sheet and all process, pleadings, and orders filed or entered in the state court action.

5. Defendant has filed contemporaneously with this Notice a civil cover sheet and a separately signed certificate of interested persons and disclosure statement that complies with Federal Rule of Civil Procedure 7.1.

#### **GROUND FOR REMOVAL: DIVERSITY**

6. This Court has original jurisdiction over this case under 28 U.S.C. § 1332 because this is a civil action between citizens of different States where the matter in controversy exceeds \$75,000.

**a. The amount in controversy exceeds the federal minimum jurisdictional requirements.**

7. Plaintiff seeks actual damages of \$23,295, treble damages in the amount of \$69,885, attorney’s fees and costs, and pre and post-judgment interest. *See* Ex. A-7 at Prayer. Accordingly, the amount in controversy in this matter meets and exceeds the federal jurisdictional minimum of \$75,000, exclusive of interest and costs.

**b. Complete diversity exists between Plaintiff and Defendant.**

8. Corporations “shall be deemed to be a citizen of every state and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business ....” 28 U.S.C. § 1332(c)(1).

9. Plaintiff is incorporated in the state of Texas with its principal place of business in Texas. Accordingly, Plaintiff was at the time of the filing of this action, has been at all times since, and is still a citizen of Texas.

10. Travelers is incorporated in the state of Connecticut with its principal place of business in Connecticut. Accordingly, Travelers was at the time of the filing of this action, has been at all times since, and is still a citizen of Connecticut.

11. Accordingly, because the amount in controversy exceeds \$75,000, Plaintiff is a citizen of Texas and Defendant is a citizen of Connecticut, this Court has original jurisdiction over the present action pursuant to 28 U.S.C. § 1332. Removal is therefore proper.

WHEREFORE, Defendant The Travelers Indemnity Company of America prays that the above-described action now pending in the 224th Judicial District Court of Bexar County, Texas be removed to this Court.

Respectfully submitted,

/s/ Wm. Lance Lewis

WM. LANCE LEWIS

Texas Bar No. 12314560

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**ATTORNEYS FOR DEFENDANT  
THE TRAVELERS INDEMNITY  
COMPANY OF AMERICA**

**CERTIFICATE OF SERVICE**

This is to certify that on December 13, 2019 a true and correct copy of the foregoing pleading has been furnished to counsel of record via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure.

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/s/ Marcie L. Schout

Marcie L. Schout